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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,541	11/03/2006	Satoru Nagamoto	515.038US01	1247
34206 7590 10/17/2008 FOGG & POWERS LLC 10 SOUTH FIFTH STREET SUITE 1000 MINNEAPOLIS, MN 55402				
EXAMINER				
PAN, YUWEN				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
10/17/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@fogglaw.com

Office Action Summary

Application No.

10/569,541

Applicant(s)

NAGAMOTO ET AL.

Examiner

YUWEN PAN

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/23/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Noreen et al (US 20020183059A1, hereinafter “Noreen”).

Per claim 1, Noreen discloses an updating system (see abstract) of a music database provided with a transmission apparatus (see figure 1 and item 102) having a transmission use music database (see figure 3 and item 200-204) storing music database information comprising identification information (see figure 4) for identifying recording media and music information corresponding to that identification information (see para. 52) and a broadcast function unit for broadcasting said music database information from said transmission use music database as multiplex information multiplexed on a broadcast wave (para 47, identifying individual program segment) and a terminal (see figure 1 and item 104) having a reception function unit (see figure 2 and item 116) for receiving a predetermined broadcast wave on which the music database information is multiplexed broadcast from the broadcast function unit, an extraction function unit (see figure 3 and item 208, 210, 212, and 214) for extracting the music database information from the received predetermined broadcast wave, and an update function unit for storing the extracted music database information in a reception side music database (see para.52).

Same arguments apply, *mutatis mutandis*, to claim 12.

Per claim 2, Noreen further teaches that said transmission apparatus has a collection function unit which cooperates with said transmission use music database and collects the music database information to be stored in the transmission use music database (see para. 50).

Per claim 3, Noreen further teaches collection function unit selects music database information based on at least one of various popularity ranking information, the frequency of broadcasts (see para. 58, statistical profiles), new music release information, and power play information given from various music providers (vendors).

Per claim 4, Noreen further teaches that said transmission apparatus is provided with a database source continuously editing and registering music database information corresponding to new music to construct a general music database and said collection function unit collects the music database information from the database source.

Per claim 7, Noreen further teaches that said reception function unit receives the multiplexed broadcast wave locked at said transmission apparatus side, unlocks the multiplexed broadcast wave by a key (password) held by the terminal, and outputs the unlocked multiplexed broadcast wave to said extraction function unit (see para 52).

Per claim 8, Noreen further teaches said reception function unit receives the multiplexed broadcast wave containing the music database information locked at the transmission apparatus side, and said extraction function unit unlocks the locked music database

information by a key held by the terminal and extract the music database information (see para. 52).

Per claim 13, Noreen discloses a terminal having a function of updating a music database including: a reception side music database enabling a search for corresponding music information based on identification information recorded on a recording media (see figure 17 and para 77), a reception function unit for receiving a predetermined broadcast wave on which the music database information broadcast from the broadcast function unit is multiplexed as multiplex information (see figure 16 and item 418), an extraction function unit for extracting the music database information from the broadcast wave received by the reception function unit, and an update function unit for storing the extracted music database information in a reception side music database (see para 79).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen in view of Yamamoto (JP02002108352A).

Per claim 5, Noreen discloses an analogues art as recited in claim 1. Noreen does not teach that the broadcast function unit transmits all of the music database information of the

transmission use music database or the difference in the music database information newly added in the transmission use music database as multiplex information multiplexed on a predetermined broadcast wave. Yamamoto teaches that the broadcast function unit transmits all of the music database information of the transmission use music database or the difference in the music database information newly added in the transmission use music database as multiplex information multiplexed on a predetermined broadcast wave (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the references to provide a device that can automatically distribute update information and music data that a user desires.

Per claim 9 and 10, Yamamoto further teaches when receiving all of the music database information from said transmission use music database of said transmission apparatus side, said update function unit rewrites (update) the reception side music database with all that music database information received or extracts from all that music database information received the unrecorded music database information as the difference in music database information and stores the difference in said reception side music database, and when receiving the newly added difference in music database information from said transmission use music database of said transmission apparatus side, said update function unit stores the newly added difference in music database information in the reception side music database (see abstract).

5. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noreen in view of Jawa et al (US006728729B1, hereinafter Jawa).

Per claim 6, Noreen does not teach said broadcast function unit transmits the music database information multiplexed on a predetermined broadcast wave repeatedly at all times or periodically at predetermined times. Jawa teaches that teach said broadcast function unit transmits the music database information multiplexed on a predetermined broadcast wave repeatedly at all times or periodically at predetermined times (see column 9, and lines 17-36). it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the references to ensure the end user has most recent updates.

Per claim 11, Jawa further teaches that said reception side music database enables a search for corresponding music information based on identification information of the recording media reproduced (see column 3 and lines 45-61).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YUWEN PAN whose telephone number is (571)272-7855. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yuwen Pan/
Primary Examiner, Art Unit 2618